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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations bring into force section 18 of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (“the Act”). Regulation 2 appoints 1 March 2021 for the coming into force of that section.

Section 18 of the Act amends the protections for mountain hares under the Wildlife and Countryside Act 1981 (“the 1981 Act”). Section 10A of the 1981 Act makes it an offence to intentionally or recklessly kill, injure or take animals specified under schedule 5A of the 1981 Act at certain times of the year (the close season). Mountain hares were previously listed in schedule 5A and it was an offence to intentionally or recklessly kill, injure or take a mountain hare between 1st March and 31st July in any year, subject to the provisions of Part 1 of the 1981 Act including the exceptions set out in section 10B of that Act.

Section 18 of the Act removes reference to the close season for mountain hares in section 10A(2)(a) of the 1981 Act and moves mountain hares from schedule 5A (animals which are protected in their close season) to schedule 5 (animals which are protected). Under section 9 of the 1981 Act it is an offence, subject to the provisions of Part 1 of that Act, to intentionally or recklessly kill, injure or take any wild animal listed in schedule 5 at any time. The effect of the modifications is to remove the open season, making it an offence to intentionally or recklessly kill, injure or take mountain hares throughout the year, subject to the provisions of Part 1 of the 1981 Act including the exceptions listed in section 10 and the licensing provisions in section 16 of the 1981 Act.

The amendment of section 10A has no effect in relation to offences committed under section 10A(1) (killing, injuring or taking a wild animal included in schedule 5) prior to 1 March 2021 as section 17 (effect of repeal on existing liability to certain penalties) of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)) applies.

The Bill for the Act received Royal Assent on 21 July 2020. Sections 17, 22 and 23 came into force the following day.